

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

IN THE MATTER OF THE APPLICATION OF  
JOSEPH MILLER, JR.,

Plaintiff,

DECISION AND ORDER

05-CV-6617L

v.

KATHLEEN M. MEHLTRETTER, in her  
official capacity as Acting United States  
Attorney for the Western District of New York,

Defendant.

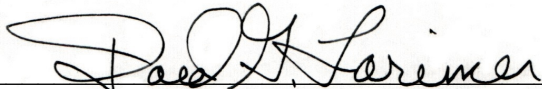
---

Pursuant to this Court's Decision of March 19, 2007 (Dkt. # 26), familiarity with which is presumed, the Government produced certain documents from the file of FBI Agent Mark Thompson that related to contacts with officials of the Elmira Police Department, the New York States Police or other Elmira, New York officials concerning an investigation of Officer Joseph Miller, Jr.

The Government has submitted 31 pages of documents. I have reviewed those documents *in camera* and some pages clearly are not relevant to the proceedings pending before the Chemung County Court at this time. The majority of the file relates to the investigation of Officer Miller, including interviews and contacts with potential witnesses. I find, therefore, that pages 11 through 31 are irrelevant to the present proceeding and are covered by the law enforcement privilege as discussed in my decision. I also find that page 10, which contains a one sentence statement, has nothing whatsoever to do with the pending proceedings.

Pages 1- 9, though, should be disclosed to plaintiff's counsel according to the principles discussed in my March 19, 2007 Decision. Disclosure to plaintiff's lawyer should be made promptly, but in no event later than 10 days after entry of this Decision and Order.

IT IS SO ORDERED.

---

DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
April 20, 2007.